

## **8. DEFICIENCY PLANS**

This element discusses the process to be used within San Bernardino County to address transportation system deficiencies through preparation of deficiency plans. In addition to statutory requirements, policy guidance regarding deficiency plans was provided by the CMA Board of Directors in October 1994. This guidance is reflected in Policies 8.1.1, 8.1.4, and 8.1.5 of this chapter.

Statutory requirements added by the passage of AB 1963 in 1994 require CMA's to prepare and adopt procedures for deficiency plan development and implementation responsibilities. These procedures will be developed through the CMP TAC, and will be incorporated into the CMP as Appendix D upon their completion and approval by the CMA Board of Directors. The conceptual and policy framework for these procedures is described.

### **8.A LEGAL REQUIREMENTS**

California Government Code Section 65089(b)(2)(B) states the following requirement to prepare deficiency plans:

"... When the level of service on a segment or at an intersection fails to attain the established level of service standard, a deficiency plan shall be adopted pursuant to Section 65089.4.

Detailed CMP deficiency plan requirements are specified in Government Code Section 65089.4:

(a) A local jurisdiction shall prepare a deficiency plan when highway or roadway level of service standards are not maintained on segments or intersections of the designated system. The deficiency plan shall be adopted by the city or county at a noticed public hearing.

(b) The agency shall calculate the impacts subject to exclusion pursuant to subdivision (f) of this section, after consultation with the regional agency, the department, and the local air quality management district or air pollution control district. If the calculated traffic level of service following exclusion of these impacts is consistent with the level of service standard, the agency shall make a finding at a publicly noticed meeting that no deficiency plan is required and so notify the affected local jurisdiction.

(c ) The agency shall be responsible for preparing and adopting procedures for local deficiency plan development and implementation responsibilities, consistent with the requirements of this section. The deficiency plan shall include all of the following:

(1) An analysis of the cause of the deficiency. This analysis shall include the following:

(A) Identification of the cause of the deficiency.

(B) Identification of the impacts of those local jurisdictions within the jurisdiction of the agency that contribute to the deficiency. These impacts shall be identified only if the calculated traffic level of service following exclusion of impacts pursuant to subdivision (f) indicates that the level of service standard has not been maintained, and shall be limited to impacts not subject to exclusion.

(2) A list of improvements necessary for the deficient segment or intersection to maintain the minimum level of service otherwise required and the estimated costs of the improvements.

(3) A list of improvements, programs, or actions, and estimates of costs, that will (A) measurably improve multimodal performance, using measures defined in paragraphs (1) and (2) of subdivision (b) of Section 65089, and (B) contribute to significant improvements in air quality, such as improved public transit service and facilities, improved non-motorized transportation facilities, high occupancy vehicle facilities, parking cash-out programs, and transportation control measures. The air quality management district or air pollution control district shall establish and periodically revise a list of approved improvements, programs, and actions that meet the scope of this paragraph. If an improvement, program, or action on the approved list has not been fully implemented, it shall be deemed to contribute to significant improvements in

air quality. If an improvement, program, or action is not on the approved list, it shall not be implemented unless approved by the local air quality management district or air pollution control district.

(4) An action plan, consistent with the provisions of Chapter 5 (commencing with Section 66000), that shall be implemented, consisting of improvements identified in paragraph (2), or improvements, programs, or actions identified in paragraph (3), that are found by the agency to be in the interest of the public health, safety and welfare. The action plan shall include a specific implementation schedule. The action plan shall include implementation strategies for those jurisdictions that have contributed to the cause of the deficiency in accordance with the agency's deficiency plan procedures. The action need not mitigate the impacts of any exclusions identified in subdivision (f). Action plan strategies shall identify the most effective implementation strategies for improving current and future system performance.

(d) A local jurisdiction shall forward its adopted deficiency plan to the agency within 12 months of the identification of the deficiency. The agency shall hold a noticed public hearing within 60 days of receiving the deficiency plan. Following that hearing, the agency shall either accept or reject the deficiency plan in its entirety, but the agency may not modify the deficiency plan. If the agency rejects the plan, it shall notify the local jurisdiction of the reasons for that rejection, and the local jurisdiction shall submit a revised plan within 90 days

addressing the agency's concerns. Failure of a local jurisdiction to comply with the schedule and requirements of this section shall be considered to be nonconformance for the purposes of Section 65089.5.

(e) The agency shall incorporate into its deficiency plan procedures a methodology for determining if deficiency impacts are caused by more than one local jurisdiction within the boundaries of the agency.

(1) If, according to the agency's methodology, it is determined that more than one local jurisdiction is responsible for causing a deficient segment or intersection, all responsible local jurisdictions shall participate in the development of a deficiency plan to be adopted by all participating local jurisdictions.

(2) The local jurisdiction in which the deficiency occurs shall have lead responsibility for developing the deficiency plan and for coordinating with other impacting local jurisdictions. If a local jurisdiction responsible for participating in a multi-jurisdictional deficiency plan does not adopt the deficiency plan in accordance with the schedule and requirements of paragraph (a) of this section, that jurisdiction shall be considered in nonconformance with the program for purposes of Section 65089.5.

(3) The agency shall establish a conflict resolution process for addressing conflicts or disputes between local jurisdictions in meeting the multi-jurisdictional deficiency plan responsibilities of this section.

(f) The analysis of the cause of the deficiency prepared pursuant to paragraph (1) of subdivision (c) shall exclude the following:

(1) Interregional travel.

(2) Construction, rehabilitation, or maintenance of facilities that impact the system.

(3) Freeway ramp metering.

(4) Traffic signal coordination by the state or other multijurisdictional agencies.

(5) Traffic generated by the provision of low and very low income housing.

(6) (A) Traffic generated by high density residential development located within one-fourth of a mile of a fixed rail passenger station.

(B) Traffic generated by any mixed use development located within one-fourth of a mile of a fixed rail passenger station, if more than half of the land area, or floor area, of the mixed use development is used for high density housing, as determined by the agency.

(g) For the purposes of this section, the following terms have the following meanings:

(1) "High density" means residential density development which contains a minimum of 24 dwelling units per acre and a minimum density per acre which is equal to or greater than 120 percent of the maximum residential density allowed under the local general plan and zoning ordinance. A project providing a minimum of 75 dwelling units per acre shall automatically be considered high density.

(2) "Mixed use development" means development which integrates compatible commercial or retail uses, or both, with residential uses, and which, due to the proximity of job locations, shopping opportunities, and residences, will discourage new trip generation."

## **8.B BENEFITS AND IMPLICATIONS OF DEFICIENCY PLANS**

Deficiency plans provide a mechanism for development and implementation of strategies to address inadequate system performance and avoid future problems, including identification of causes and mitigation responsibilities.

If the level of service at an intersection or a segment drops below the established level of service standard, local jurisdictions are required to develop these plans to correct the deficiency by making improvements that elevate the level of service to a condition equal to or better than the prescribed level of service standard for that intersection or segment, or by implementing strategies that will measurably improve the level of service of the system and contribute to significant improvements in air quality.

## **8.C OBJECTIVES, POLICIES, AND ACTIONS**

The objective of deficiency plans in San Bernardino County is:

**Objective 8.1** . Maintain or improve the performance of the multimodal transportation

system within San Bernardino County through development and implementation of deficiency plans.

Policy 8.1.1 - Address existing and future deficiencies on all CMP facilities through Deficiency Plans which cover large geographic areas of the county (such as the Valley or Victor Valley), rather than individual facilities or individual corridors.

*Action* Prepare area wide deficiency plan(s) which address all CMP roads and other significant components of the multimodal transportation system through a participatory process involving all impacting and affected jurisdictions.

**RESPONSIBILITY:** Local jurisdictions.

Policy 8.1.2 - Establish and maintain procedures for local deficiency plan development and implementation responsibilities, consistent with statute.

*Action* Prepare and periodically update deficiency plan procedures, subject to approval by the CMA Board of Directors.

**RESPONSIBILITY:** The CMA in cooperation with local jurisdictions.

Policy 8.1.3 - Upon completion of the CTP, prepare and adopt area wide deficiency plans within one year for areas in which the CMP monitoring program has identified deficiencies.

*Action* Through the CTP Subarea Team for the area in which a deficiency has been identified, develop the area wide deficiency plan based on the local actions identified within the CTP as it applies to that area.

**RESPONSIBILITY:** Local jurisdiction(s) in which deficiency has been identified as lead agency(s), other jurisdictions within area participate in preparation, and adopt deficiency plan.

Policy 8.1.4 - Use the countywide Comprehensive Transportation Plan (CTP) to analyze causes of deficiencies and define the local jurisdiction actions to be implemented through area wide Deficiency Plans.

*Action* Through the CTP TAC, develop the CTP on a subarea basis to facilitate its use in defining actions to be implemented through area wide deficiency plans.

**RESPONSIBILITY:** The CMA, in cooperation with local jurisdictions, the regional agency, Caltrans, transit providers, and air quality districts.

Policy 8.1.5 - To the greatest extent possible, provide technical and financial support for the process of developing area wide deficiency plans from subarea components of the CTP.

*Action* Give priority to area wide deficiency plan preparation in allocating discretionary transportation monies.

**RESPONSIBILITY:** The County Transportation Commission and CMA.

Policy 8.1.6 - Incorporate into the adopted deficiency plan procedures a methodology for determining if deficiency impacts are caused by more than one local jurisdiction within the boundaries of the CMA.

*Action* Through the CMP TAC, develop and maintain a methodology for fairly attributing deficiency impacts and plan implementation responsibilities to all jurisdictions within a deficiency planning area which contribute to the cause of the deficiency.

**RESPONSIBILITY:** The CMA.

Policy 8.1.7 - Calculate the impacts subject to exclusion, and if the calculated traffic level of service following exclusion of these impacts is consistent with the level of service standard, find at a publicly noticed meeting that no deficiency plan is required, and so notify the affected local jurisdiction.

*Action* Through the CMP TAC, develop and maintain a methodology for calculating the traffic level of service following exclusion of impacts from sources specified in statute.

**RESPONSIBILITY:** The CMA, in consultation with the regional agency, Caltrans, and the appropriate air quality management district.

Policy 8.1.8 - All local jurisdictions responsible for contributing to deficiency(s) within an area shall participate in

the development of the areawide deficiency plan, and shall adopt the plan.

*Action* Participate in development of area wide deficiency plans, and adopt final deficiency plans.

**RESPONSIBILITY:** Local jurisdictions, with assistance from the CMA if requested.

Policy 8.1.9 - Update deficiency plans, as needed, in conjunction with biennial updates of the CTP and CMP.

*Action* Through the CTP TAC and CMP TAC, participate in updates to both the CTP and deficiency plan action programs as needed to achieve the desired systemwide performance level, in light of revised estimates of growth or travel behavior.

**RESPONSIBILITY:** Local jurisdictions, in cooperation with the CMA, and in consultation with the regional agency, Caltrans, and the appropriate air quality management district.

Policy 8.1.10 - Establish and maintain a conflict resolution process for addressing conflicts or disputes between local jurisdictions in meeting the multi-jurisdictional deficiency plan responsibilities.

*Action* Implement conflict resolution procedures at the request of one or more local jurisdictions.

**RESPONSIBILITY:** The CMA.

## **8.E DEFICIENCY PLAN STRATEGY**

Consistent with statute and CMA Board policy, adoption of the applicable area wide deficiency plan by each local government in that area would constitute that local government's commitment to implement actions identified by the Comprehensive Transportation Plan as being the responsibility of local governments within the respective areas. No additional Deficiency Plans would be required, in contrast to the alternative, in which facility specific, usually multi-jurisdictional deficiency plans would be required for each CMP facility if the CMP level of service standard were exceeded. The CMA's deficiency plan policy reflects a recognition of the administrative infeasibility of a facility-specific approach relying on a patchwork of overlapping, multi-jurisdictional deficiency plans. Periodic updates of the area wide deficiency plans would be required in conjunction with CMP and CTP updates to ensure that the plans continue to reflect the mobility strategy defined by the CTP, which in turn must maintain consistency with the locations, rates, and types of land use changes that occur through time. Because preparation of the CTP is supported by non-local transportation planning funds, local governments can reduce deficiency plan preparation costs by using the CTP as the basis for each deficiency plan's action plan. The effort and cost to complete the area wide Deficiency Plans leading to adoption by local governments will depend on the nature of the transportation strategy adopted through the CTP, but will be far less than if numerous facility-specific Deficiency Plans were required under the previous deficiency plan strategy.

## **8.F COMPONENTS OF DEFICIENCY PLANS**

Government Code Section 65089.4© specifies the components of an approvable deficiency plan. The CMA is required to calculate the impacts subject to exclusion prior to inception of the process of preparing a deficiency plan, to determine if the calculated level of service following exclusion is consistent with the level of service standard. If the calculated level of service following subtraction of the impacts subject to exclusion remains below the CMP level of service standard, the deficiency plan is required. It is required to include:

1. *Analysis of the cause of the deficiency.* Although this component of a deficiency plan may have been originally intended to identify specific land use decisions that caused a particular roadway to exceed the level of service standard, experience in the larger urbanized areas of Southern California indicates that most deficiencies are a result of many local actions involving a multitude of local jurisdictions. In the case of a program which focuses on multi-jurisdictional, area wide deficiency plans, this element of the deficiency plan instead serves to identify the jurisdictions required to participate in and contribute to preparation and implementation of the deficiency plan.

2. *List of improvements needed to maintain LOS standard.* This element identifies the capital improvements or other strategies which, if implemented, would return the CMP facilities addressed by a deficiency plan to the CMP LOS standard. If a series of phased improvements would be needed through time to maintain the LOS standard because of continuing growth, all the improvements, along with a schedule which phases the improvements in relation to rates of development, could be incorporated within a single deficiency plan. This could avoid the need for preparation of numerous deficiency plans to

address a single continuing problem. In the case of an area wide deficiency plan, any improvements needed to maintain the LOS standard on every facility in the area encompassed by the deficiency plan must be identified.

3. *A list of improvements or strategies that will improve system performance and air quality.* This element provides flexibility to move beyond (but not necessarily ignore) facility-specific, roadway level of service maintenance, to focus instead on multimodal transportation system performance throughout the entire area of interest. Instead of concentration solely on one or more facilities in relation to the CMP level of service standard, this approach also permits local policy to dictate the level of system performance (or performance improvement) to be achieved through implementation of the deficiency plan. According to CMA Board policy, the Comprehensive Transportation Plan is the mechanism through which the actions to be implemented through area wide deficiency plans are to be defined. The system performance objectives of the CTP then become the system performance level to be achieved in the respective areas addressed by deficiency plans. In effect, the deficiency plans are the implementation mechanisms for local government actions in accordance with the Comprehensive Transportation Plan.

4. *An action plan based either on strategy (2) or strategy (3) above, that shall be implemented, including a specific implementation schedule.* The scheduling or phasing of implementation is this section's key component. The deficiency plan's implementation schedule for long-term strategies should be based on monitored increases in land use or actual traffic, rather than on absolute dates.

Under the area wide deficiency plan strategy of the CMP for San Bernardino County, much of the effort of deficiency plan preparation and

implementation is accomplished through other planning efforts or other elements of the CMP. The improvements to be implemented through the deficiency plan are to be identified for each subarea of the county through the Comprehensive Transportation Plan. The Land Use/Transportation Analysis element of the CMP described in Chapter 4, and the CMP monitoring program described in Chapter 7, are designed to support the deficiency plan process by tracking changes in land use that affect traffic locations, volumes, and modes to determine how actual population, housing, jobs, and traffic growth is varying from the growth assumptions on which the CTP was based. As disparities are identified between actual events identified by the monitoring program, and the forecasts of growth, biennial updates of the CTP will include tests of the original transportation strategy to determine if transportation performance objectives are met despite changes in growth patterns or rates, and refinements to the CTP will be needed. Accordingly, deficiency plan updates will be undertaken as part of the biennial CMP update process to incorporate these refinements.

revisions to deficiency plan action programs.

- In cooperation with the local jurisdictions and Caltrans, prepare and periodically update deficiency plan procedures.
- Give priority to area wide deficiency plan preparation in allocating discretionary transportation monies.
- Through the CMP TAC, develop and maintain a methodology for fairly attributing deficiency impacts and plan implementation responsibilities to all jurisdictions within a deficiency planning area which contribute to the cause of the deficiency.
- In consultation with the CMP TAC, the regional agency, Caltrans, and the air quality management districts, develop and maintain a methodology for calculating the traffic level of service following exclusion of impacts from sources specified in statute.

## **8.G SUMMARY OF RESPONSIBILITIES**

### **CMA Responsibilities**

- In cooperation with member jurisdictions, the regional agency, Caltrans, transit providers, and air quality districts, develop the CTP on a subarea basis to facilitate its use in defining actions to be implemented through area wide deficiency plans.
- Coordinate periodic updates to the CTP to serve as a basis for periodic updates or

### **Local Jurisdiction Responsibilities**

- Through the CMP TAC, participate in preparation and periodic updating of deficiency plan procedures.
- Prepare area wide deficiency plan(s) which address all CMP roads and other significant components of the multimodal transportation system through a participatory process involving all impacting and affected jurisdictions.
- Participate in development of the area wide deficiency plan based on the local



- actions identified within the pertinent subarea plan of the CTP.
- Act as lead agency to coordinate preparation of a multi-jurisdictional deficiency plan if the deficiency has been identified within your jurisdictional boundaries.
- Participate in updates to both the CTP and deficiency plan action programs as needed to achieve the desired systemwide performance level, in light of revised estimates of growth or travel behavior.

#### **CALTRANS Responsibilities**

- Participate in preparation of the CTP to define local actions to be implemented through area wide deficiency plans, and in periodic updates of the CTP.
- Participate in preparation and periodic updates to deficiency plan procedures.
- Participate through the CMP TAC in development and maintenance of a methodology for fairly attributing deficiency impacts and plan implementation responsibilities to all jurisdictions within a deficiency planning area which contribute to the cause of the deficiency.
- Participate in development and maintenance of a methodology for calculating the traffic level of service following exclusion of impacts from sources specified in statute.

- Assist local jurisdictions in preparing area wide deficiency plans as they relate to or impact the system of State highways.

#### **Air District Responsibilities**

- Establish and periodically revise a list of approved improvements, programs, and actions that it deems will contribute to significant improvements in air quality.
- Assist local governments within the respective air quality district jurisdictions to determine if area wide deficiency plans will contribute to significant improvements in air quality.

#### **SCAG Responsibilities**

- In cooperation with the CMA and local jurisdictions, prepare and update growth forecasts on which to base the CTP, deficiency plan action programs, and their periodic updates.
- In cooperation with CMA, local jurisdictions, Caltrans, transit providers, and air quality districts, participate in development of the CTP on a subarea basis to facilitate its use in defining actions to be implemented through area wide deficiency plans.
- Consult with CMA, Caltrans, and the air quality management districts, on development and maintenance of a methodology for calculating the traffic

level of service following exclusion of impacts from sources specified in statute.